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In re Application of	:	
Schneider et al.	:	
Application No.: 10/579,786	:	DECISION
PCT No.: PCT/US03/04507	:	
Int. Filing Date: 19 February 2003	:	ON
Earliest Priority Date: 22 February 2002	:	
Attorney Docket No.: 25815-100-03	:	PETITION
For: Magnetic Label Stock Material	:	

This is in response to the "Amendment, Petition And Fee To Delete And/Or Add To Original Erroneously Named Inventor(s) In Declaration 937 C.F.R. §1.48(a))" filed on 23 August 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

This international application was filed on 19 February 2003 and claimed a priority date of 22 February 2002. The United States was designated. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 22 August 2004. This international application became abandoned with respect to the national stage in the United States for failure to timely pay the basic national fee.

On 18 May 2006, applicants filed a petition under 37 CFR 1.137(b).

On 26 June 2006, a decision granting the petition filed on 18 May 2006 was mailed.

DISCUSSION

Counsel requests that the USPTO "Delete the following previously incorrectly named inventor: Jon B. Schneider." Counsel requests correction of inventorship under 37 CFR 1.48, but the regulation applicable to the instant situation is 37 CFR 1.497(d). A declaration filed under 37 CFR 1.497 (d) must be by the actual inventor or inventors as required under 37 CFR 1.63 or as permitted by 37 CFR 1.42, 1.43 or 1.47. The declaration must be accompanied by (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part, (2) the processing fee set forth in 37 CFR 1.17; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (*See* 37 CFR 3.73(b)). *See* Section 201.03 of the Manual of Patent Examining Procedure (M.P.E.P.).

Regarding requirement (1), applicants have provided a purported "statement from: Jon B. Schneider," but this statement has not been signed by Mr. Schneider. Accordingly, requirement (1) has not been satisfied.

Regarding requirement (2), the required processing fee was paid on 23 August 2006.

Regarding requirement (3), the "Written assent of assignee" portion of the correspondence filed on 23 August 2006 states that "Magnum Magnetics Corporation agrees to the deletion of Jon B. Schneider as a co-inventor of this application," and is signed by C. Allen Love in the capacity of "President" of Magnum Magnetics Corporation. Counsel's attention is drawn to 37 CFR 3.73(b), which provides that

(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

The instant submission does not satisfy 37 CFR 3.73(b)(1) because it is not accompanied by statement affirmatively identifying the assignee and supported by documentary evidence of a chain of title (and a request to record it) or by a statement specifying the reel and frame number where such documentation may be found in the records of the USPTO. Therefore, requirement (3) has not been satisfied. Based on the totality of the evidence of record, it would not be appropriate to conclude that the requirements of 37 CFR 1.497(d) have been satisfied.

CONCLUSION


The request under 37 CFR 1.497(d) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). Failure to timely reply will result in **ABANDONMENT** of this application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.497(d)." No additional processing fee is required.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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